
IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

DARRELL BLOOMQUIST,

Plaintiff,

v.

STATE OF UTAH, *et. al.*,

Defendants.

**ORDER AFFIRMING & ADOPTING
REPORT & RECOMMENDATION**

Case No. 2:22-CV-659-DAK-DBP

Judge Dale A. Kimball

Magistrate Judge Dustin B. Pead

This case was assigned to United States District Court Judge Dale A. Kimball, who then referred the case to United States Magistrate Judge Dustin B. Pead under 28 U.S.C. § 636(b)(1)(B). On March 7, 2023, Magistrate Judge Pead issued a Report and Recommendation [ECF No. 74], recommending that the court grant Defendant State of Utah's Motion to Dismiss [ECF No. 65] and Plaintiff Darrell Bloomquist's Motion for Judgment on the Pleadings be denied without prejudice in its current form.

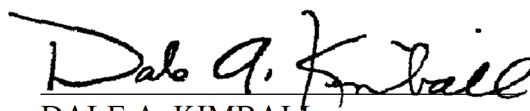
The Report and Recommendation notified Plaintiff that any objection to the Report and Recommendation must be filed within fourteen days of receiving it. On March 13, 2023, Plaintiff filed an "Objection to Recommendation of State of Utah's Motion to Dismiss."

A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the Report and Recommendation and the record *de novo* and agrees with Magistrate Judge Pead's analysis and recommendations in their entirety. Plaintiff has not alleged that the State of Utah

took any actions and there is no discernable claim directed at the State of Utah. Moreover, as a matter of law, the State of Utah is not a “person” under 42 U.S.C. § 1983. *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 64 (1989) (“neither a State nor its officials acting in their official capacities are ‘persons’ under § 1983”). Because the State of Utah is not a “person” under § 1983 as a matter of law, Plaintiff could not plead any facts against the State of Utah that could subject it to § 1983 liability. In addition, the court agrees that if Plaintiff wants to pursue his Motion for Judgment on the Pleadings, the court rules require him to file it as its own document, rather than being included in a response memorandum. DUCivR 7-1(a)(3). Nothing Plaintiff asserts in his Objections undermines Magistrate Judge Pead’s analysis of the issues. Therefore, the court adopts and affirms Magistrate Judge Pead’s Report and Recommendation as the order of the court. Accordingly, the court grants the State of Utah’s Motion to Dismiss [ECF No. 65] and dismisses the Complaint against the State of Utah. The court also denies without prejudice Plaintiff’s Motion for Judgment on the Pleadings [ECF No. 68].

DATED this 16th day of March, 2023.

BY THE COURT:


DALE A. KIMBALL
United States District Judge